IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 859 OF 2006

IN

APPEAL FROM ORDER NO. 49 OF 2004

SHRI SRIPAD C.MADKAIKAR AND 3 ORS., ...Applicants

Versus

DATTA APARTMENTS CO-OPERATIVE HOUSING SOCIETY LTD. & ANR. ....Respondent

Mr. S. N. Joshi, Advocate for the applicants.

Mr. V. A. Lawande, Advocate for the respondents.

Coram:- P.V. KAKADE, J.

Date:- 8th December, 2006

P.C.

Heard learned Counsel for both the parties. This is an application by the applicants-appellants seeking permission to replace the plaint Exhibit-A annexed to the Memo of Appeal and remove from the paper book the application for amendment.

The factual matrix involved in this matter is that during the pendency of the present appeal, the appellants filed an application before the trial Court for amendment of the plaint to place on record certain facts, which came to be rejected by the lower Court. The said order was challenged in Writ Petition No. 480/2005 beofre this Court and this Court allowed the Writ Petition vide order dated 24.8.2006. In view of this position, now a formality is required to be completed to replace the amended plaint, to be annexed to the memo of appeal.

Once the amendment application is allowed by way of writ petition, this Court is not sitting in appeal over the order passed in writ petition. Therefore, the merits cannot be gone into. However, it is submitted on behalf of the respondents that necessary copies are not supplied to him, which the appellants are directed to supply without any delay.

With this direction, the application is made absolute in terms of prayers (a) and (b) and stands disposed of with no order as to costs.

P.V. KAKADE, J.

ssm.